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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,203	12/01/2003	Thomas Maierholzner	22745	9820

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EXAMINER


MORROW, JASON S

ART UNIT PAPER NUMBER

3612

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/725,203	MAIERHOLZNER, THOMAS 	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jason S. Morrow	3612	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/1/03</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Priority*

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, lines 4 and 5, the phrase "a data output unit and/or a data input unit" is indefinite. It fails to distinctly claim a single structure. The phrase also appears in claim 4, line 2, claim 6, line 2, claim 9, line 2, and claim 11, line 2.

In claim 3, line 2, the words "it" and "its" are indefinite.

In claim 4, lines 2 and 3, the phrase "with the first cover part or with the second cover part" is indefinite. It fails to claim to equivalent structures in the alternative.

Claim 4 recites the limitation "the second cover part" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites the limitation "the second pivot shaft" in lines 3 and 4. There is insufficient antecedent basis for this limitation in the claim.

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Claim 7 recites the limitation "the second pivoting shaft" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 11 recites the limitation "the folded together state" in 3. There is insufficient antecedent basis for this limitation in the claim.

In claim 11, line 3, the word "its" is indefinite.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 2, 7-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Malone et al.

Re claim 1, Malone discloses a cover (30) supported on a bearing (28), in particular, for an armrest in particular for a center arm rest of a motor vehicle, characterized in that the cover includes at least a first cover part (30), with which a data output unit and/or a data input unit (12) is moveably connected.

Re claim 2, the first cover part is pivotably supported relative to the bearing by means of a first pivot shaft (see figure 2).

Re claim 7, first cover part includes an intermediate piece (the piece of the hinge 32 connected to 12), which is pivotably disposed about the second pivoting shaft.

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Re claim 8, the data input unit or the data output unit is connected with the intermediate piece.

Re claim 9, the data output unit and/or the data output unit is connected with the intermediate piece by means of the swivel joint.

Re claim 10, the data output unit or the data input unit includes a display screen or a display.

Re claim 11, the data output unit and/or the data input unit faces toward a bearing of the first cover part in the folded together state with its side having a display screen or display or with its side having control elements (see figures 2 and 1).

#### *Allowable Subject Matter*

6. Claims 3-6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### *Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cressoni, Shah, Emerling et al., and Worrell et al. disclose vehicle consoles.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason S. Morrow whose telephone number is (703) 305-7803. The examiner can normally be reached on Monday-Friday, 8:00a.m.-4:30p.m..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (703) 308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 6, 2004

Jason S. Morrow  
Examiner  
Art Unit 3612

  
**JASON MORROW**  
**PRIMARY PATENT EXAMINER**

9/6/04